

PLANNING COMMISSION MINUTES

November 10, 2010

7 p.m. Regular Meeting

Newberg Public Safety Building

401 E. Third Street

TO BE APPROVED AT THE DECEMBER 9, 2010 PLANNING COMMISSION MEETING

I. ROLL CALL:

Present: Nick Tri, Chair Philip Smith, Vice Chair
Cathy Stuhr Thomas Barnes
Derek Duff Lon Wall Kale Rogers, Student PC

Staff Present: Barton Brierley, Planning & Building Director
Jessica Nunley, Assistant Planner
Steve Olson, Associate Planner
DawnKaren Bevill, Recording Secretary

Others Present: Larry Anderson

II. OPEN MEETING:

Chair Tri opened the meeting at 7:00 p.m. and asked for roll call.

III. CONSENT CALENDAR:

Chair Tri entertained a motion to accept the minutes of the October 14, 2010 meeting.

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| MOTION #1: Duff/Barnes to approve the minutes as corrected from the Planning Commission Meeting of October 14, 2010 as amended. (6 Yes/ 0 No/ 0 Absent/ 1 Vacant [Haug]) Motion carried. |
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IV. COMMUNICATIONS FROM THE FLOOR:

Chair Tri offered an opportunity for non-agenda items. None were brought forth.

V. QUASI-JUDICIAL PUBLIC HEARING

(continued from Oct. 14, 2010 at the point of deliberation)

APPLICANT: Housing Authority of Yamhill County

REQUEST: Change the Comprehensive Plan designation from LDR (Low Density Residential) to HDR (High Density Residential) and change the zoning from R-1 (low Density Residential) to R-3 (High Density Residential) for a 3.39-acre property.

LOCATION: 1103 N Meridian St.

TAX LOT: 3218DA-2100

FILE NO.: CPA-10-001/ZMA-10-001 **RESOLUTION NO.:** 2010-285

CRITERIA: Newberg Development Code § 151.122

Staff Summary:

Jessica Nunley gave a short summary of the proposal and reviewed the application and site information (See official meeting packet for details).

Staff Recommendation:

Staff recommends that the Planning Commission adopt Resolution 2010-285 with the findings contained in Exhibit A, recommending that the City Council approve the requested Comprehensive Plan map amendment from Low Density Residential (LDR) to High Density Residential (HDR) and Zoning map amendment from R-1 to R-3., for the property shown in Exhibit B and described by Exhibit C.

Chair Tri opened the hearing at the point of deliberation at 7:11 p.m.

Deliberation:

Commissioner Stuhr stated the application does meet the criteria although she is concerned about the traffic. There are some things we could look at such as restricting parking on the street where the driveways are located.

Commissioner Smith stated the Comprehensive Plan says to encourage affordable housing. Many who have testified said this property would make a great park and museum and although it would, the City does not have the authority to do that as the City does not own the property. There were questions about the suitability of this property for the use. The properties around it are zoned R-1, R-2, and R-3. Does the City need affordable housing more than it needs R-1? The answer is yes. The lack of R-3 land is much more severe. Concerning transportation, it is at level of service A and will remain that way. What about stormwater or other water? This property is more than equipped to handle the water. The list goes on and on. His friends from Spaulding Oaks do not want the Planning Commission to approve this but there is no criterion that supports their position.

Commissioner Wall stated this is a difficult decision for him but it is clear this vote is on a zone change. The design review will need to come back to the Planning Commission when the time comes. The Planning Commission has been directed by the City Council to find R-3 property and zone R-3. This property is located where the streets are not pushed to their maximum. There is no compelling reason to vote against it and he will vote yes.

Commissioner Duff stated when looking at the criteria there is nothing to dissuade the Planning Commission from voting to approve it. The Housing Authority's willingness to reach out to the public and have meetings with the public before bringing this application before the Commission shows trustworthiness. Those actions lead him to believe the Housing Authority will do what they have said.

Kale Rogers stated based on the need for R-3 housing he believes it should be passed.

Commissioner Barnes stated he had been concerned about the sewer line until the proponent explained it. He is in favor of the application.

Chair Tri said he agrees with what has been stated by the Commissioners.

Commissioner Smith moved to vote on the motion by Commissioner Barnes, seconded by Commissioner Stuhr, to approve Resolution 2010-285 at the October 14, 2010 Planning Commission meeting.

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| VOTE ON MOTION: (6 Yes/ 0 No/ 0 Absent/ 1 Vacant [Haug]) Motion carried. |
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TIME: 7:29 PM

VI. LEGISLATIVE PUBLIC HEARING

APPLICANT: City of Newberg – Public Works: Engineering

REQUEST: Stormwater Management and Erosion Control Ordinance. Approve an Ordinance managing stormwater and establishing erosion control requirements. The Ordinance will fulfill requirements in the Willamette TMDL Implementation Plan (approved by DEQ) for controlling sediment in stormwater discharges to the Willamette River from construction sites and developed properties.

RESOLUTION NO.: 2010-284

Opening of the Hearing:

Chair Tri asked the Commissioners for any abstentions, conflicts of interest, or objections to jurisdiction. None were brought forward.

Sonja Johnson, Environmental Specialist with the City of Newberg Public Works Engineering Department, gave an overview of the proposed Stormwater Management and Erosion Control Code (see the October 14, 2010 official meeting packet for details). Currently there are no guidelines for applicants to follow regarding preconstruction stormwater management. The purpose for this proposed code is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the effects associated with increased sediment in stormwater cause by erosion. The provisions of this code shall apply to all development occurring within the City Limits. Erosion control is covered under the Department of Environmental Quality (DEQ). In 2011, DEQ will be finalizing the turbidity standard and the reason for this proposed code was due to an agreement with DEQ that was agreed to by the City Council in 2008 which stated there is an Ordinance in place by 2009 for stormwater management. The code is requiring the developer to submit an erosion control plan and a stormwater management plan. The types of erosion controls that will be required as part of this code are erosion controls that are already being used, such as stabilizing soil stock piles, providing silt fences, putting down new seeded straw and creating rock berms; straw bales for filtering capacity, as well as wattles. There is enforcement as always with any ordinance and one of the items brought to the Planning Commission's attention is a Voluntary Compliance Agreement; the City would work with the applicant to help determine appropriate erosion control and the timeline in which it needs to be completed. The stormwater facilities under this proposed code will have to control 40% of stormwater from the site, which will need to be controlled through swales, a greenway, pervious pavement, a series of flow through or infiltration planters; requiring maintenance agreements which will be attached to the deed so homeowners will know there is a facility on their property. The agreements are required in order to be sure timely maintenance is being done. There are several different kinds of maintenance organization such as private homeowners, non-profit organizations (HOAs), or they can apply to the City for a Special Assessment District. The maintenance organization will submit a report yearly to the City and update any contact information. If an applicant believes they cannot fulfill the intent of the code they can apply for a variance. There are various ways to mitigate the stormwater by nonprofit donation in the watershed, construct or upgrade stormwater facilities downstream of the project, or have a conservation easement downstream of the project.

Questions:

Commissioner Stuhr stated the establishment of the Total Maximum Daily Loading (TMDL) looks at this issue in a broad way without defining exactly what the problem is or how to solve it, which is difficult to enforce. Ms. Johnson stated the TMDL plan is geared more toward a non-point source. As Newberg grows to a Phase II City, there will be discharge limits to abide by. By allowing infiltration of the stormwater, limits should be met.

Commissioner Stuhr stated the whole plan seems to be driven by the summary statement with regard to the TMDL plan but it is hard to find purpose to each issue such as flooding. Does this become retroactive to developments that already exist? Ms. Johnson replied, no. Commissioner Stuhr believes the use of some of the terms can be too subjective and are not limited in any way. She referred to Section 13.25.22, (A); the size and type of development is not clear. It could be a very small site but have a great impact. Annette de Paz, City Surveyor, stated the specifics are in the design standards. It is not intended to have an ordinance that states the exact water quality since those standards may change over time. In the design standards there are still some generalities since each site has different characteristics that need to be addressed. However, staff will look at those areas brought up and see if they can be more objective. Commissioner Stuhr asked if the stormwater can be off-site on an adjacent parcel. Ms. de Paz replied yes, it depends on the property rights the developer has. Commissioner Stuhr asked how well does this plan transition to population growth. Ms. de Paz replied DEQ is currently working with the City to ensure the TMDL plan currently used is in preparation of the Phase II permit level, making the transition easier.

Chair Tri opened public testimony at 8:00 PM.

Opponents:

Larry Anderson understands the reason for the City adopting this code, but believes this is much stricter than is needed. He reviewed sections of the code he believes could be omitted or changed. DEQ wants the City to have local management of construction and stormwater runoff; the intent is to keep the larger developments over one acre getting DEQ 1200C permits and paying the nominal fee. DEQ has design templates so drawings are easy to put together. This Newberg plan will be a burden to those developments under one acre; any development above 500 square feet would have to meet the new standards. There is a lot of vagueness in the plan. Mr. Anderson referred to the exemptions on page five and the land disturbance definition – 500 square feet could be a homeowner putting in a patio in the back yard. On page six the definition for redevelopment, DEQ's definition is still one acre for development and redevelopment. On page nine, Section 13.25.10 (B-4); DEQ states that drawings and permits for less than one acre are not required. His observation is that most soil in streets is coming from new home construction yet that is exempt from this. As long as you are building a home in a subdivision, you are not regulated by the City under this. The two biggest contributors to runoff and erosion are exempt and the small homeowner is not covered under those exemptions. Mr. Anderson referred to Section 13.25.20 on page 10 (A – C); all are routine now with larger projects but not for someone building a carport or patio; there will be much expense to go through for something so small which is unnecessary. Section 13.25.23 on page 11 this is the same information provided on a permit drawing for a larger area, not what you want for a small development project. Section 13.25.24 there is a lot of discretion on additional requirements. Disturbances within 50 feet of a stream, as defined by this code, require additional unspecified requirements. The items on page 13 are seen on larger sites but not on smaller sites and are overdone. On page 14, (B) in regard to the erosion control inspector, in most cases a general contractor does that but a small homeowner cannot do that himself. This can be very expensive and that is why DEQ does not regulate less than one acre in that way. On page 15, Section

13.25.41 under control measures, he is in favor of low impact and controlled runoff although you really cannot control runoff on 500 square feet. On page 16, Section 13.25.50 under deed restrictions, these are the type of things that are seen on a large development that is already covered in the Development Code under the stormwater design standards and should not apply to small development. Mr. Anderson referred to page 17 and stated that DEQ requires the City to file an annual report, but a property owner who has a facility on his property should not be required to do so. On page 19, Section 13.25.71, Mr. Anderson explained if you are for example adding an RV pad and the subdivision drains into a detention facility, even though you are not contributing stormwater, you still have to pay an application fee based on this code. On page 22, under Guarantees and Penalties, if you are a small business owner with a 10,000 square foot building, a performance bond will need to be calculated – paying 150% to the City in the form of a bond. Then the maintenance bond is 15%. Most people cannot be bonded so their choice is to write a check to the City to be sure what is being built will be held through the duration of the project. After completion of the project, it takes the City 60 days to return the money back, which is a long period of time. The maintenance bond on pages 22 – 23 is returned back two years after the project is complete. Holding a bond for two years after completion is excessive. This is very imposing on the community and is far more severe than what DEQ is requiring. Mr. Anderson urged the Planning Commission to not approve this code and suggested having staff come back with amended regulations and the cost to the property owner for the Planning Commission to review.

Commissioner Duff asked Mr. Anderson if he is not opposed to the sediment agreements but opposed to having them apply to developments of 500 square feet to an acre in size. Mr. Anderson replied that is correct, most of the code is fine for larger developments.

Commissioner Smith stated after hearing Mr. Anderson's testimony it seems the City could have a very short City Code to adopt and abide by DEQ requirements. Mr. Anderson agreed. Commissioner Smith thanked Mr. Anderson and stated this has been very significant testimony.

Sonja Johnson stated single-family homeowners were intended to be exempt from this code. The TMDL agreement specifically says the erosion and stormwater code has to apply to all sizes of development.

Commissioner Wall referred to single family residential structures and change of land contours of 500 square feet or more; suggesting a change in wording from "structure" to "all property."

Commissioner Duff asked if a small business does landscaping over 500 square feet, would they be required to go through the permitting process. Annette de Paz replied if changing the topography, yes.

Commissioner Stuhr suggested the Planning Commission have a workshop on this due to the massive amount of information. The Commission needs to be educated in order to make an informed decision.

Chair Tri closed the public testimony at 9:00 p.m.

MOTION #2: Smith/Barnes moved to not approve this recommendation but instead ask staff to continue work on it and bring a revised proposal back to the Planning Commission at a future meeting, as well as having a workshop if staff deems it necessary. (6 Yes/ 0 No/ 0 Absent/ 1 Vacant [Haug])
Motion carried.

Commissioner Stuhr stated consistency with wording regarding contaminants is important, and the definition of environmentally sensitive resources needs to be changed.

VII. ITEMS FROM STAFF:

Update on Council items:

Barton Brierley stated the City Council heard the Johnson Furniture Property historical designation application and it was approved. They also passed a resolution to dissolve the Newberg Downtown Revitalization Committee. In order to move the resources to the Newberg Downtown Coalition, \$7,500 funding was approved for the Coalition.

This is National Planning Month so staff did a project with local middle schools where they engaged students with City planning, asking them to design projects for two pieces of vacant commercial property. Suggestions varied from a frozen yogurt shop, a dog park, regional mall, bowling alley, trails, homeless shelter, and food co-op. After a week's time the students did a presentation which Mayor Andrews, Commissioner Stuhr, and Commissioner Barnes attended.

Since there is not enough money in the budget to hold the annual Planning Commission dinner, staff is suggesting gathering before the next meeting on December 9, 2010 at 6:30 p.m. to thank the Commissioners by serving appetizers and having a social hour to hopefully be held at the Cultural Center. The Commissioners were in agreement. Barton stated there are four positions up for appointment for the Planning Commission that will be considered by the Mayor. Thomas Barnes has reapplied; Nick Tri has not reapplied, Derek Duff has not reapplied, and Matson Haug's position is vacant. Barton Brierley thanked Commissioner Tri for his many years of service; Mr. Tri is unable to attend the December meeting. Commissioner Tri stated he has enjoyed serving on the Planning Commission.

The next Planning Commission Meeting is scheduled on Thursday, December 9, 2010.

VIII. ITEMS FROM COMMISSIONERS:

None were brought forward.

IX. ADJOURN:

Chair Tri adjourned the meeting at 9:15 PM.

Approved by the Planning Commission on this 9th day of December, 2010.

AYES: 5

NO: 0

ABSENT: 1 (TRI)

ABSTAIN: 0



Planning Recording Secretary



Planning Commission Chair